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SENATE BILL 332

**46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004**

INTRODUCED BY

Joseph A. Fidel

AN ACT

RELATING TO PUBLIC PROPERTY; AMENDING THE STATE BUILDING  
BONDING ACT TO PROVIDE THAT THE ACT APPLIES ONLY TO THE  
ACQUISITION OF STATE OFFICE BUILDINGS; AMENDING LAWS 2001,  
CHAPTER 166 TO AUTHORIZE THE ACQUISITION OF CERTAIN PROPERTY BY  
THE PROPERTY CONTROL DIVISION OF THE GENERAL SERVICES  
DEPARTMENT AND TO APPROPRIATE BOND PROCEEDS FOR CERTAIN  
ACTIVITIES OF THE CAPITOL BUILDINGS PLANNING COMMISSION; MAKING  
AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the State Building Bonding  
Act, Section 6-21C-2 NMSA 1978, is enacted to read:

"6-21C-2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that the expense of  
leasing office space for state occupancy has grown to the point  
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1 that the state would be better served if more state-owned  
2 facilities were acquired. The legislature further finds that  
3 the state's overall occupancy costs could be reduced even after  
4 taking into account the payments necessary on bonds issued to  
5 acquire additional facilities and that, therefore, it is  
6 economically advantageous for the state to own additional  
7 office space. Further, in anticipation of the state's future  
8 office space needs, the legislature finds it prudent to  
9 establish an office acquisition program.

10 B. The purpose of the State Building Bonding Act is  
11 to acquire additional state office buildings by issuing bonds  
12 paid for with distributions of gross receipts tax revenue that  
13 reflect a portion of the savings that will result from the  
14 conversion to more state-owned facilities."

15 Section 2. Section 6-21C-3 NMSA 1978 (being Laws 2001,  
16 Chapter 199, Section 3, as amended) is amended to read:

17 "6-21C-3. DEFINITIONS.--As used in the State Building  
18 Bonding Act:

19 A. "acquiring" or "acquisition" includes acquiring  
20 or acquisition by purchase, construction or renovation; and

21 B. "building bonds" means state office building tax  
22 revenue bonds [~~or state museum tax revenue bonds~~]."

23 Section 3. Section 6-21C-4 NMSA 1978 (being Laws 2001,  
24 Chapter 199, Section 4, as amended) is amended to read:

25 "6-21C-4. NEW MEXICO FINANCE AUTHORITY SHALL ISSUE

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1 BUILDING BONDS--APPROPRIATION OF PROCEEDS.--

2 A. The New Mexico finance authority is authorized  
3 to issue and sell revenue bonds, known as "state office  
4 building tax revenue bonds", payable solely from the state  
5 building bonding fund, in compliance with the State Building  
6 Bonding Act for the purpose of acquiring state office buildings  
7 when the acquisition has been reviewed by the capitol buildings  
8 planning commission and has been authorized by legislative act  
9 and the director of the property control division of the  
10 general services department has certified the need for the  
11 issuance of the bonds.

12 ~~[B. The New Mexico finance authority is authorized~~  
13 ~~to issue and sell revenue bonds, known as "state museum tax~~  
14 ~~revenue bonds", payable solely from the state building bonding~~  
15 ~~fund, in compliance with the State Building Bonding Act for the~~  
16 ~~purpose of renovating and maintaining existing structures and~~  
17 ~~developing permanent exhibits at state museums and monuments~~  
18 ~~when the renovation, maintenance or exhibit development has~~  
19 ~~been authorized by legislative act, the state cultural affairs~~  
20 ~~officer has certified the need for the issuance of the bonds~~  
21 ~~and, in the case of a renovation or maintenance of an existing~~  
22 ~~structure, the renovation or maintenance has been reviewed by~~  
23 ~~the capitol buildings planning commission.~~

24 G.] B. The net proceeds from the [state office]  
25 building [tax revenue] bonds are appropriated to the property

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1 control division of the general services department for the  
2 purpose of acquiring state office buildings, the acquisition of  
3 which shall be consistent with the State Building Bonding Act  
4 and the authorizing legislation.

5 ~~[D. The net proceeds from the state museum tax~~  
6 ~~revenue bonds are appropriated to the office of cultural~~  
7 ~~affairs for the purpose of renovating and maintaining existing~~  
8 ~~structures and developing permanent exhibits at state museums~~  
9 ~~and monuments, the renovation, maintenance or exhibit~~  
10 ~~development of which shall be consistent with the State~~  
11 ~~Building Bonding Act and the authorizing legislation.]"~~

12 Section 4. Section 6-21C-5 NMSA 1978 (being Laws 2001,  
13 Chapter 199, Section 5, as amended) is amended to read:

14 "6-21C-5. STATE BUILDING BONDING FUND CREATED--MONEY IN  
15 THE FUND PLEDGED.--

16 A. The "state building bonding fund" is created as  
17 a special fund within the New Mexico finance authority. The  
18 fund shall be administered by the New Mexico finance authority  
19 as a special account. The fund shall consist of money  
20 appropriated and transferred to the fund and gross receipts tax  
21 revenues distributed to the fund by law. Earnings of the fund  
22 shall be credited to the fund. Balances in the fund at the end  
23 of any fiscal year shall remain in the fund, except as provided  
24 in this section.

25 B. Money in the state building bonding fund is

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1 pledged for the payment of principal and interest on all  
2 building bonds issued pursuant to the State Building Bonding  
3 Act. Money in the fund is appropriated to the New Mexico  
4 finance authority for the purpose of paying debt service,  
5 including redemption premiums, on the building bonds and the  
6 expenses incurred in the issuance, payment and administration  
7 of the bonds.

8 C. On the last day of January and July of each  
9 year, the New Mexico finance authority shall estimate the  
10 amount needed to make debt service and other payments during  
11 the next twelve months from the state building bonding fund on  
12 the building bonds issued pursuant to the State Building  
13 Bonding Act plus the amount that may be needed for any required  
14 reserves. The New Mexico finance authority shall transfer to  
15 the general fund any balance in the state building bonding fund  
16 above the estimated amounts.

17 D. Any balance remaining in the state building  
18 bonding fund shall be transferred to the general fund upon  
19 certification by the New Mexico finance authority that:

20 (1) the director of the property control  
21 division of the general services department [~~in the case of~~  
22 ~~state office building tax revenue bonds, and the state cultural~~  
23 ~~affairs officer, in the case of state museum tax revenue bonds]~~  
24 and the New Mexico finance authority have agreed that the  
25 building bonds issued pursuant to the State Building Bonding

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1 Act have been retired, that no additional obligations of the  
2 state building bonding fund exist and that no additional  
3 expenditures from the fund are necessary; or

4 (2) a court of jurisdiction has ruled that the  
5 building bonds have been retired, that no additional  
6 obligations of the state building bonding fund exist and that  
7 no additional expenditures from the fund are necessary.

8 E. The building bonds issued pursuant to the State  
9 Building Bonding Act shall be payable solely from the state  
10 building bonding fund or, with the approval of the bondholders,  
11 such other special funds as may be provided by law and do not  
12 create an obligation or indebtedness of the state within the  
13 meaning of any constitutional provision. No breach of any  
14 contractual obligation incurred pursuant to that act shall  
15 impose a pecuniary liability or a charge upon the general  
16 credit or taxing power of the state, and the bonds are not  
17 general obligations for which the state's full faith and credit  
18 is pledged.

19 F. The state does hereby pledge that the state  
20 building bonding fund shall be used only for the purposes  
21 specified in this section and pledged first to pay the debt  
22 service on the building bonds issued pursuant to the State  
23 Building Bonding Act. The state further pledges that any law  
24 authorizing the distribution of taxes or other revenues to the  
25 state building bonding fund or authorizing expenditures from

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1 the fund shall not be amended or repealed or otherwise modified  
2 so as to impair the bonds to which the state building bonding  
3 fund is dedicated as provided in this section."

4 Section 5. Section 6-21C-8 NMSA 1978 (being Laws 2001,  
5 Chapter 199, Section 8, as amended) is amended to read:

6 "6-21C-8. PROCEDURE FOR SALE OF BUILDING BONDS.--

7 A. Building bonds shall be sold by the New Mexico  
8 finance authority at such times and in such manner as the  
9 authority may elect, consistent with the need of the property  
10 control division of the general services department [~~or the~~  
11 ~~office of cultural affairs~~], either at private sale for a  
12 negotiated price or to the highest bidder at public sale for  
13 cash at not less than par and accrued interest.

14 B. In connection with any public sale of building  
15 bonds, the New Mexico finance authority shall publish a notice  
16 of the time and place of sale in a newspaper of general  
17 circulation in the state and also in a recognized financial  
18 journal outside the state. Such publication shall be made once  
19 each week for two consecutive weeks prior to the date fixed for  
20 such sale, the last publication to be two business days prior  
21 to the date of sale. Such notice shall specify the amount,  
22 denomination, maturity and description of the bonds to be  
23 offered for sale and the place, day and hour at which sealed  
24 bids therefor shall be received. All bids, except that of the  
25 state, shall be accompanied by a deposit of two percent of the

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1 principal amount of the bonds. Deposits of unsuccessful  
2 bidders shall be returned upon rejection of the bid. At the  
3 time and place specified in such notice, the New Mexico finance  
4 authority shall open the bids in public and shall award the  
5 bonds, or any part thereof, to the bidder or bidders offering  
6 the best price. The New Mexico finance authority may reject  
7 any or all bids and readvertise.

8 C. The New Mexico finance authority may sell a  
9 building bond issue, or any part thereof, to the state or to  
10 one or more investment bankers or institutional investors at  
11 private sale."

12 Section 6. Laws 2001, Chapter 166, Section 1 is amended  
13 to read:

14 "Section 1. AUTHORIZATION TO ACQUIRE PROPERTY--  
15 APPROPRIATION.--

16 A. In order to acquire the following properties for  
17 use as state agency offices in Santa Fe county, the property  
18 control division of the general services department may:

19 (1) purchase and renovate, equip and furnish  
20 the national education association building on South Capitol  
21 street;

22 (2) plan, design, construct, equip and furnish  
23 a new office building with integrated parking at the west  
24 capitol complex on Cerrillos road, pursuant to the design  
25 funded by Subsection I of Section 14 of Chapter 118 of Laws

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1 1998, at a price not to exceed twenty-five million dollars  
2 (\$25,000,000);

3 (3) purchase and renovate, equip and furnish  
4 the public employees retirement association building on Paseo  
5 de Peralta; and

6 (4) purchase land [~~adjacent to the district~~  
7 ~~five office of the state highway and transportation department~~  
8 ~~on Cerrillos road~~] within or, notwithstanding any bisecting  
9 right of way, adjacent to the public safety campus as set out  
10 in the capitol buildings master plan developed by the capitol  
11 buildings planning commission; provided that no land shall be  
12 purchased pursuant to this paragraph that does not have, in  
13 place, water, sewer, electricity and other necessary  
14 infrastructure.

15 B. The acquisitions of property pursuant to  
16 Subsection A of this section shall be made in the priority  
17 order listed in that subsection. Purchases authorized in  
18 Paragraphs (1), (2) and (4) of Subsection A of this section  
19 shall be made at a price not to exceed the value of the  
20 property established by the taxation and revenue department  
21 using generally accepted appraisal techniques for the type of  
22 property purchased. The purchase authorized in Paragraph (3)  
23 of Subsection A of this section shall be made at a price  
24 negotiated with the retirement board of the public employees  
25 retirement association that is not less than the fair market

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1 value of the property and building.

2 C. If state office building tax revenue bonds  
3 issued pursuant to Laws 2001, Chapter 166, Section 2 [~~of this~~  
4 ~~act~~] are outstanding, then, as amounts become available in the  
5 property control reserve fund, as much of the property control  
6 reserve fund as is necessary to pay the debt service and other  
7 payments on the bonds plus any amount needed for any required  
8 reserves shall be transferred from the property control reserve  
9 fund to the state office building bonding fund.

10 D. If state office building tax revenue bonds have  
11 not been issued pursuant to Laws 2001, Chapter 166, Section 2  
12 [~~of this act~~] or if the bonds have been issued but are no  
13 longer outstanding, then, as amounts become available in the  
14 property control reserve fund, as much of the property control  
15 reserve fund as is necessary to comply with the provisions of  
16 Subsection A of this section is appropriated to the property  
17 control division of the general services department for  
18 expenditure in fiscal year 2001 and subsequent fiscal years."

19 Section 7. Laws 2001, Chapter 166, Section 2 is amended  
20 to read:

21 "Section 2. STATE OFFICE BUILDING TAX REVENUE BONDS--  
22 AUTHORIZATION--CONTINGENCY.--

23 A. The New Mexico finance authority may issue and  
24 sell state office building tax revenue bonds in compliance with  
25 the State Office Building Acquisition Bonding Act in a total

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1 amount not to exceed seventy-five million dollars (\$75,000,000)  
2 when the director of the property control division of the  
3 general services department certifies to the authority that the  
4 proceeds from the state office building tax revenue bonds are  
5 needed to acquire one or more of the properties specified in  
6 Laws 2001, Chapter 166, Section 1 [~~of this act~~]. The authority  
7 shall schedule the issuance and sale of the bonds in the most  
8 expeditious and economical manner possible upon a finding by  
9 the authority that the acquisition can proceed within a  
10 reasonable time. The authority shall further take the  
11 appropriate steps necessary to comply with the Internal Revenue  
12 Code of 1986, as amended. Except as provided in Subsection B  
13 of this section, proceeds from the sale of the bonds are  
14 appropriated to the property control division of the general  
15 services department for expenditure in fiscal year 2001 and  
16 subsequent fiscal years for the purpose of making the  
17 acquisitions pursuant to Laws 2001, Chapter 166, Section 1 [~~of~~  
18 ~~this act~~].

19 B. Two hundred fifty thousand dollars (\$250,000) of  
20 the bond proceeds are appropriated to the legislative council  
21 service for expenditure in fiscal years 2004 through 2007 for  
22 the purpose of supporting the work of the capitol buildings  
23 planning commission, including master planning for state  
24 facilities and annual updates to master plans. Any unexpended  
25 or unencumbered balance remaining at the end of fiscal year

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